

# *United States District Court*

SOUTHERN

DISTRICT OF

FLORIDA

UNITED STATES OF AMERICA

V.

**CRIMINAL COMPLAINT**

EDGAR NAKACHE,  
SUSAN AVILES, and  
CECILIA MARCILLO-AVILES,  
a/k/a "Ana Cecilia Marcillo Muirragui,"

Defendants.

CASE NUMBER:

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about July 20, 2006, in Miami-Dade County, in the Southern District of Florida, the defendants did knowingly possess, conceal, store, barter, or sell goods, wares, or merchandise, that is, items of Pre-Columbian art, the value of which is over \$5,000.00, into the United States, from a place outside thereof, knowing the same to have been stolen, unlawfully converted or taken, in violation of Title 18, United States Code, Section 2315; and did knowingly and willfully, with the intent to defraud the United States, smuggle or clandestinely introduce into the United States, from a place outside thereof, any merchandise which should have been invoiced, that is, items of Pre-Columbian art, in violation of Title 18, United States Code, Section 545.

I further state that I am a Special Agent with Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

\_\_\_\_\_  
AMANDA MORAN, SPECIAL AGENT  
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me, and subscribed in my presence,

July 21, 2006

Date

at

Miami, Florida

City and State

WILLIAM C. TURNOFF  
UNITED STATES MAGISTRATE JUDGE

Name and Title of Judicial Officer

\_\_\_\_\_  
Signature of Judicial Officer

## AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Amanda Moran, being duly sworn, depose and say as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), and have been so employed for approximately four years. Prior to this, I was a Hennepin County, Minnesota Sheriff's Deputy for five years. I am presently assigned to the Cargo Theft Hijacking Task Force, which is comprised of multiple jurisdictions in South Florida. I am also a member of the FBI's Art Crime Team, which is comprised of only twelve Agents, each responsible for a region of the United States. To date, I have been actively involved in cargo theft investigations and art-related crimes, and I have assisted in the execution of search and arrest warrants in the course of those investigations. The following is based on my personal knowledge and information provided to me by other law enforcement officers.
2. The information contained in this affidavit is submitted to demonstrate that probable cause exists to arrest EDGAR NACKACHE, SUSAN AVILES, and CECILIA MARCILLO-AVILES a/k/a "Ana Cecilia Marcillo Muirragui," for violations of Title 18, United States Code, Sections 545 and 2315, as well as aiding and abetting, in violation of Title 18, United States Code, Section 2. Because this affidavit is being submitted for the limited purpose of obtaining a complaint, it does not contain all of the information known to me and/or other law enforcement officers involved in this investigation.

3. This matter originated when an email was sent soliciting the sale of some 600 pre-Columbian artifacts to officials at the International Council of Museums (“ICOM”) in Paris, France. Upon receipt of this email, officials at ICOM contacted Interpol in France. Interpol then contacted the Ecuadorian National Police, which in turn contacted the FBI’s Legat office in Santiago, Chile, whose jurisdiction encompasses Ecuador, Peru, and Chile. FBI Legat Chile then contacted FBI’s Miami Division based on a lead in the Southern District of Florida.
4. In February 2006, based on information provided by the FBI’s Legat Santiago, Chile, office, your affiant initiated an investigation on EDGAR NAKACHE, SUSAN AVILES, and CECILIA MARCILLO-AVILES, who were soliciting buyers for approximately 600 pieces of Pre-Columbian artifacts. Pre-Columbian art consists of art and artifacts from the Americas, including, but not limited to, pottery, baskets, ponchos, jewelry, carvings, and statues that pre-date the arrival of Christopher Columbus in the Americas. Under Ecuadorian law, it is illegal to possess, sell, or transport out of Ecuador any such historical artifacts, as they are deemed property of the Ecuadorian government. The United States recognizes Ecuadorian criminal law regarding cultural property, hence it is illegal in the United States to possess and sell ancient Pre-Columbian artifacts. The importation of Pre-Columbian art that cannot be legally imported is a violation of Title 18, U.S.C. 545. Further, Title 18, U.S.C. 2315 makes it illegal to receive, possess, conceal, store, barter, sell, or dispose of that art to the extent it is valued over \$5,000.

5. On or about February 18, 2006, an undercover agent (UC) made contact with EDGAR NAKACHE, via email, in order to obtain more information regarding the artifacts that were being offered for sale. NAKACHE replied back to the UC that the items were still for sale and gave the UC a telephone number, telling the UC to call him for more information. These emails were closed with the name of "Edgar Nakache." These email correspondences were saved in electronic format.
6. On or about March 16, 2006, the UC called NAKACHE at the number provided by NAKACHE. During this conversation, NAKACHE introduced himself and told the UC he was originally from France. He advised the UC that the collection contained approximately 600 pieces and that the collection was from Ecuador. He stated that he was a broker for the artifacts and the collection was owned by a woman from Ecuador. NAKACHE advised the UC to visit a website where the entire collection could be seen. NAKACHE also advised that he had tried to sell the collection to a museum in France and that he would be willing to sell the entire collection for \$2.5 million. NAKACHE also admitted that some of the collection was located in Europe and some of it in Miami. This conversation was audio recorded.
7. On or about April 18, 2006, the UC spoke to NAKACHE who advised that the owner of the pieces still had not sold any of the artifacts and that they were still for sale. This conversation was audio recorded.
8. Through information contained on the website provided by NAKACHE, law enforcement was able to identify CECILIA MARCILLO-AVILES as the possible proprietor of the artifacts.

9. On or about April 19, 2006, the UC spoke to NAKACHE who advised that MARCILLO-AVILES had five artifacts that she would show the UC.  
  
NAKACHE also advised the UC that the rest of the artifacts were in Ecuador, and they discussed the importance and value of the artifacts. NAKACHE stated that the owner did not need the money, but wanted to sell the artifacts to give the money to her children. This conversation was audio recorded.
10. On or about April 25, 2006, NAKACHE met with the UC and your affiant, acting in an undercover capacity, and followed NAKACHE to a house located at 31 SW 30<sup>th</sup> Road, Miami, Florida, in order to view the five artifacts. Record checks indicate that the residence is owned by SUSAN AVILES, the daughter of MARCILLO-AVILES.
11. While at the residence, MARCILLO-AVILES showed both the UC and your affiant multiple artifacts that she stated had been flown in from Ecuador. Your affiant was able to take multiple photographs of these artifacts. During this meeting, MARCILLO-AVILES and NAKACHE both admitted they knew that selling the artifacts was illegal. They also advised that MARCILLO-AVILES' husband had collected the artifacts for over forty years. MARCILLO-AVILES advised that she had good connections in the airport that would allow the artifacts to be brought into the United States without any problems. She advised that she also had the rest of the artifacts at her house in Guayaquil, Ecuador. She provided the UC and your affiant photographs of the rest of the artifacts that she claimed were in Ecuador. This meeting was audio recorded.

12. On or about May 8, 2006, the UC showed the photographs of the artifacts taken by your affiant at the residence on April 25, 2006, to an Associate Professor of Anthropology in New York who opined that the artifacts were authentic Pre-Columbian artifacts.
13. On or about May 9, 2006, the UC, your affiant, and the above referenced professor, all acting in undercover capacities, again went to AVILES' residence to view the artifacts. We met with NAKACHE, AVILES, and MARCILLO-AVILES. During this meeting, the professor were able to examine and view the artifacts that were in the house. There were approximately 13 items, including 6 figurines, 2 necklaces, 3 bowls, and several pieces of jewelry. During the meeting, AVILES also admitted that she knew that selling the artifacts was illegal, and she advised that she had grown up with the collection in Ecuador. Afterwards, the professor opined that the artifacts are authentic, with some of them being close to 3,000 to 4,000 years old. This meeting was audio recorded.
14. Shortly after this meeting, NAKACHE advised that the price for the entire collection had been raised to \$5 million. The UC and NAKACHE continued discussions regarding the price via email. These messages have been saved in electronic format.
15. On or about June 22, 2006, the UC met with NAKACHE and AVILES at AVILES' residence. The UC then followed NAKACHE and AVILES to Brickell Xtra Storage located at 601 SW 8<sup>th</sup> Street, Miami, Florida. They brought the UC to storage units 143 and 144. AVILES opened the units, and the UC was able to view multiple other artifacts that the UC was supposed to buy. The UC also took

multiple photographs of the artifacts inside the storage units. AVILES advised the UC that they would be able to fly more artifacts into the country to complete the deal. Both NAKACHE and AVILES continually asked the UC if the UC was a “cop” or from Interpol.

16. On or about July 1, 2006, NAKACHE emailed the UC and advised that they were ready to complete the first part of the deal, which had been agreed on as \$2 million for 150 artifacts. NAKACHE advised the UC to travel to Miami, Florida where they would have the artifacts at AVILES’ residence to consummate the sale. As per agreement, during this meeting, the UC was supposed to wire transfer \$2 million to the bank account of MARCILLO-AVILES after viewing the 150 artifacts.
17. On or about July 16, 2006, the UC received an email “signed” by AVILES that provided the UC with a bank account number in the name of MARCILLO-AVILES. This bank account is the account where the UC was supposed to wire transfer the first payment of \$2 million upon seeing the artifacts.
18. On or about July 19, 2006, the UC called NAKACHE who advised the UC that all of the artifacts were at AVILES’ residence. NAKACHE told the UC that AVILES, and MARCILLO-AVILES, would be at the house to consummate the deal the next day. The conversation was audio recorded.
19. On or about July 20, 2006, the UC called NAKACHE and told him that he was ready to complete the deal. During this conversation, NAKACHE told the UC that about 100 of the artifacts were at AVILES’ residence, and that remaining 50

- artifacts were at the storage unit. The UC advised NAKACHE that he wanted to view all the artifacts at AVILES' residence.
20. On or about July 20, 2006, the UC met NAKACHE in downtown Miami and followed NAKACHE to AVILES' residence. While there, the UC was able to view approximately 100 artifacts inside the residence. Shortly after arriving at the residence, NAKACHE, AVILES, and MARCILLO-AVILES, left the residence and drove to the storage units located at 601 SW 8<sup>th</sup> Street.
  21. At the storage units, the UC helped load the artifacts from the storage units into the vehicles. When they were finished loading the artifacts, NAKACHE, AVILES, MARCILLO-AVILES, and the UC went back to AVILES' residence.
  22. Upon arrival at the residence, and the unloading of all the artifacts into the residence, the UC, using a pre-determined signal, notified law enforcement that all the artifacts were in the residence. Using an anticipatory search warrant, law enforcement entered the residence. Upon entry into the residence, investigators observed approximately 165 Pre-Columbian artifacts staged inside the living room.
  23. After being transported to Miami-Dade Police Department for processing, and after being read his *Miranda* Rights, NAKACHE confessed to knowing that selling the artifacts was illegal. He advised that AVILES had told him that removing the artifacts from Ecuador and selling them was against the law. NAKACHE also advised that MARCILLO-AVILES had smuggled the majority of artifacts into the United States in the previous few weeks, both on a private jet and a commercial airliner in her suitcases. NAKACHE also advised that he had



raised the price of the artifacts from \$2.5 million to \$5 million when he realized the potential buyer was worth a lot of money. NAKACHE advised that he had only wanted to make some money on the deal.

24. Based on the forgoing information, your affiant believes that probable cause exists to arrest NAKACHE, AVILES, and MARCILLO-AVILES, for violations of Title 18, United States Code, Sections 545, 2315, and 2.

FURTHER AFFIANT SAYETH NOT.

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AMANDA MORAN  
SPECIAL AGENT  
FEDERAL BUREAU OF INVESTIGATION

SUBSCRIBED AND SWORN TO,  
THIS 21<sup>st</sup> DAY OF JULY 2006

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WILLIAM C. TURNOFF  
UNITED STATES MAGISTRATE JUDGE  
SOUTHER DISTRICT OF FLORIDA